

BEFORE THE
POSTAL REGULATORY COMMISSION

Statutory Review of the System	:	
for Regulating Rates and Classes	:	Docket No. RM2017-3
for Market Dominant Products	:	

STATEMENT IN SUPPORT OF THE JOINT MOTION FOR
MODIFICATION OF PROCEDURAL FRAMEWORK

(January 19, 2017)

United Parcel Service, Inc. (“UPS”) respectfully writes in support of the recent motions to amend the procedural-framework of this docket. The Alliance for Nonprofit Mailers and MPA—The Association of Magazine Media (“Alliance/MPA”), and the American Catalog Mailers Association, Inc., the American Forest & Paper Association, the Association for Postal Commerce, the Data & Marketing Association, the Envelope Manufacturers Association, the Greeting Card Association, IDEAlliance, the Major Mailers Association, the National Association of Presort Mailers, the National Newspaper Association, the National Postal Policy Council, the News Media Alliance, the Parcel Shippers Association, and the Saturation Mailers Coalition (“Joint Parties”) (collectively the “Moving Parties”) filed motions in this docket on January 17th and 18th, 2017, asking the Commission to modify the procedural framework set forth in the notice of proposed rulemaking in this docket.¹

¹ See Motion of Alliance of Nonprofit Mailers and MPA—The Association of Magazine Media To Modify Procedural Schedule, Dkt. No. RM2017-3 (January 17, 2017); Joint Motion for Modification of Procedural Framework, Dkt. No. RM2017-3 (January 18, 2017) (“Joint Motion”); Advance Notice of Proposed Rulemaking on the Statutory Review of the System for Regulating Rates and Classes for Market Dominant

The Moving Parties asked the Commission to set a two-stage briefing schedule and allow reply comments so interested parties may focus their resources on the issues the Commission deems most important. UPS supports the Moving Parties' proposed procedural framework and agrees that the requested changes are warranted to protect the interests of all stakeholders and assure full and meaningful participation in this docket.

Specifically, focusing the first phase of briefing on whether the current system achieves the nine objectives and adequately takes into account the fourteen factors set forth in 39 U.S.C. § 3622 will help ensure full and meaningful participation by interested parties. Commenting on the propriety of the current system will take considerable resources. If the procedural framework of this docket is not changed, interested parties may be required to choose to either adequately address the current system or formulate an alternative system that more fully accords with §3622. With a two tiered system, interested parties will be able to devote appropriate resources to each issue in turn.

Should the Commission determine the current system is not adequate under § 3622, the Moving Parties' proposed framework would also allow the Commission to highlight the issues in which it is most interested prior to seeking comments proposing changes to the system. The proposed framework would thus allow interested parties, in phase two, to focus their efforts on the issues that are most likely to make a difference.

UPS also agrees with the Moving Parties that a two-stage procedural framework accords best with 39 U.S.C. § 3622(d)(3). There, Congress required that "If the

Products, Order No. 3673, Dkt. No. RM2017-3 (December 20, 2016) ("Order No. 3673").

Commission determines, after notice and opportunity for public comment, that the system is not” achieving the objectives or taking the factors into account, “the Commission may, by regulation, make such modification or adopt such alternative system for ... as necessary to achieve the objectives.” Such “regulation” which makes modification to the system should itself be subject to a second round of public comment if the Commission does not adopt the proposed procedural framework.

Finally, any proposed changes to the system for regulating ratemaking for market dominant products will affect competitive products stakeholders as well. One of the objectives and two of the factors of §3622 refer, directly or indirectly, to competitive products or markets.² Among other things, the Commission will consider whether the market dominant ratemaking system adequately achieves the goal of “appropriately” allocating institutional costs between market dominant and competitive products. §3622 (b)(9). Thus it is in the interest of UPS and other competitive products stakeholders, in addition to the Joint Parties and other market-dominant stakeholders, that the procedural schedule in this docket allow for full and meaningful participation.

² Objective 9, “To allocate the total institutional costs of the Postal Service appropriately between market-dominant and competitive products[;]” factor 3, “the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;” and factor 10, “the desirability of special classifications for both postal users and the Postal Service in accordance with the policies of this title, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similarly situated mailers, that— . . . do not cause unreasonable harm to the marketplace.” 38 USC 3622 (b), (3).

CONCLUSION

For the foregoing reasons, UPS respectfully requests that the Commission modify the procedural framework established by Order No. 3673 as outlined in the Joint Motion.

Respectfully submitted,

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